

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

| | | |
|--|---|----------------------|
| In the matter of |) | |
| |) | |
| Implementation of Section 621(a)(1) of the Cable |) | |
| Communications Policy Act of 1984 as amended |) | MB Docket No. 05-311 |
| by the Cable Television Consumer Protection and |) | |
| Competition Act of 1992 |) | |
| |) | |

**COMMENTS OF
MANHATTAN NEIGHBORHOOD NETWORK
IN RESPONSE TO THE FURTHER NOTICE
OF PROPOSED RULEMAKING**

Manhattan Neighborhood Network submits these comments in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking (“Further Notice”).

1. New York City is the local franchising authority for the borough of Manhattan. Manhattan Neighborhood Network (MNN) administers four public access channels for the borough, providing residents and community organizations free training and access to facilities and equipment in three locations throughout Manhattan. MNN programs more 500 hours of original programming each week and the channels are amongst the best representation the vibrant diversity of the city. In the five-year period between 2001-2006, MNN provided media skills training and certification classes in television production, editing and broadcasting at no cost to more than 12,900 people. Studios, editing facilities and camera equipment are also

available free of charge to Manhattan residents. In 2006, MNN administered more than 14,430 media equipment uses and check-outs.

MNN services include the nationally recognized Youth Channel, and a Community Media program that assists non-profits and community based organizations with production equipment, training and support.

There are three franchised cable operators within New York City's jurisdiction. Those cable operators, along with the current expiration dates of their franchises are: RCN Telecom – Dec 29, 2007, Time Warner – Sept. 16, 2008, Cablevision – Oct 8, 2008.

2. Manhattan Neighborhood Network supports and adopts the comments of the Alliance for Community Media, the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, and the U.S. Conference of Mayors, filed in response to the Further Notice.

3. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at "facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment" (Order at ¶ 1).

4. We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act's goal of ensuring that a cable system is "responsive

to the needs and interests of the local community,” 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the Order are valid, they cannot, and should not, be applied to incumbent cable operators. By its terms, the “unreasonable refusal” provisions of Section 621(a)(1) apply to “additional competitive franchise[s],” not to incumbent cable operators. Those operators are by definition already in the market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

5. We strongly endorse the Further Notice’s tentative conclusion (at para. 142) that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from “preempt[ing] state or local customer service laws that exceed the Commission’s standards,” and from “preventing LFAs and cable operators from agreeing to more stringent [customer service] standards” than the FCC’s.

Respectfully submitted,

Dan Coughlin
Executive Director

Manhattan Neighborhood Network
537 West 59th Street
New York, NY 10019
212 757 2670 x324